

**Washington, D.C.** - Related Documents: CRS Report -- Bankruptcy Reform

Following House approval of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (S. 256) by a vote of 302-126, U.S. Rep. David Price has released the following information on the bill, which passed the Senate by a vote of 74-25 last month.

"Many constituents have contacted me, wondering how this bill could potentially affect low-income people," said Price. "There are important provisions in place to protect them, and filing for bankruptcy would continue to be an option for the overwhelming majority of people who need it."

S. 256 would require some debtors with incomes higher than the state median income to file for Chapter 13 bankruptcy protection. Chapter 13 differs from Chapter 7 protection because it requires filers to enter into a payment plan to repay a portion or all of their debt based on their ability to repay. It is estimated that approximately 10 percent of existing Chapter 7 filers would be affected by the bill. The remaining 90 percent of filers would still be eligible for relief through Chapter 7, which eliminates debts but requires filers to give up most of their assets.

It is important to note that filers with incomes below the median would not be affected by the bill. According to the US Census Bureau, the NC state median income information (3-year average from 2000-2002) was \$38,432.

Specifically, S. 256 would establish a means test to determine debtors' eligibility for relief. Under the means test, the debtor's current monthly income would be determined by:

- averaging the debtor's monthly income for the 6 months prior to filing, excluding Social Security benefits;
  
- health expenses;

- additional allowance for food, clothing, rent, car maintenance and household supplies; expenses to support an elderly, chronically ill, or disabled family member; expenses for home energy costs;
- monthly payments for secured and priority debts; and
- expenses for elementary or secondary private or public school tuition.

Debtors whose monthly income meets the means-test monetary threshold and whose remaining income after allowable expenses are deducted is sufficient to pay at least \$6,000 over a 5-year period (or \$100 a month for 60 months) would enter the Chapter 13 repayment plan. However, S. 256 would also provide a "safe harbor" to debtors who earn less than the state median income. The safe harbor provision would prevent creditors from forcing debtors to convert to a Chapter 13 repayment plan.

"Bankruptcy filings have increased by 400 percent in the past two decades, and filings continued to grow even during the period of high economic growth in the 1990's," said Price. "I am concerned about protecting the bankruptcy system against abuse, and I believe we should restore the system to its original role: providing a clean slate for consumers in legitimate and serious financial trouble, while easing the transition of others to financial solvency and enabling them to fulfill their obligations when they can."

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